

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Oct 15, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DERWIN BUTLER, SR.,

Plaintiff,

v.

CORRECTIONS SGT STOVE,

CORRECTIONS LT CAPT PEIENCE,

and WARDEN COSUENI HIENYUM,

Defendants.

No. 2:21-CV-00228-SAB

ORDER DISMISSING ACTION
FOR FAILURE TO COMPLY
WITH FILING FEE AND *IN
FORMA PAUPERIS*
REQUIREMENTS

By Order filed September 9, 2021, the Court directed Plaintiff Derwin Butler, Sr., a prisoner at the California Men's Colony in San Luis Obispo County, California, to comply with 28 U.S.C. § 1915(a)(2). ECF No. 6. This statutory provision requires a prisoner seeking to bring a civil action without prepayment of the filing fee to submit a certified copy of his trust fund account statement (or institutional equivalent) for the six months immediately preceding the filing of the complaint. *Id.* On September 29, 2021, Plaintiff filed an account statement, ECF No. 8, along with documentation indicating that he had previously attempted to send this information, but the Clerk of Court for the Eastern District of Washington erroneously returned it to him on August 16, 2021. ECF No. 9 at 2.

ORDER DISMISSING ACTION FOR FAILURE TO COMPLY WITH FILING FEE AND *IN FORMA PAUPERIS* REQUIREMENTS -- 1

1 Regardless, the account statement presented, ECF No. 8, is deficient. It does
2 not cover the six-month period immediately preceding the filing of the complaint.
3 *See* 28 U.S.C. § 1915(a)(2). The Court cautioned Mr. Butler that if he did not
4 submit a certified copy of his six-month inmate trust account statement (or
5 institutional equivalent) for the period immediately preceding July 29, 2021, then
6 the file would be closed. In the alternative, the Court granted Mr. Butler the
7 opportunity to pay the \$402.00 filing fee in full to commence this action. He did
8 not do so.

9 Accordingly, **IT IS HEREBY ORDERED:**

- 10 1. Plaintiff's application to proceed *in forma pauperis*, ECF No. 2, is
11 **DENIED** for failure to comply with 28 U.S.C. § 1915(a)(2).
- 12 2. This action is **DISMISSED without prejudice** for failure to pay the
13 filing fee under 28 U.S.C. § 1914.

14 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
15 enter judgment, provide copies to Plaintiff and **CLOSE** the file. The Court certifies
16 that any appeal of this dismissal would not be taken in good faith and would lack
17 an arguable basis in law or fact.

18 **DATED** this 15th day of October 2021.



22 Stanley A. Bastian

23 Stanley A. Bastian
24 Chief United States District Judge